

# SENATE BILL No. 319

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.5.

**Synopsis:** Distribution of local option income taxes. Requires the department of state revenue to track the amount of county income tax that is received from employers for county taxpayers through withholding for which an income tax return has not been filed. Provides for distributions to counties of income tax withholdings received that are not associated with an individual income tax return by the deadline for claiming a refund (two years).

**Effective:** January 1, 2016.

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## Head

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January 8, 2015, read first time and referred to Committee on Tax & Fiscal Policy.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 319

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3.5-1.1-8.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JANUARY 1, 2016]: **Sec. 8.5. The department shall**
- 4 **record and track the amount of county adjusted gross income tax**
- 5 **revenue that is received from county taxpayers through tax**
- 6 **withholding for which an income tax return has not been filed for**
- 7 **a particular taxable year.**
- 8 SECTION 2. IC 6-3.5-1.1-9, AS AMENDED BY P.L.153-2014,
- 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JANUARY 1, 2016]: Sec. 9. (a) Revenue derived from the imposition
- 11 of the county adjusted gross income tax shall, in the manner prescribed
- 12 by this section, be distributed to the county that imposed it. The amount
- 13 to be distributed to a county during an ensuing calendar year equals the
- 14 amount of county adjusted gross income tax revenue that the budget
- 15 agency determines has been:
- 16 (1) received from that county for a taxable year ending before the



1           calendar year in which the determination is made; and  
 2           (2) reported on an annual return or amended return processed by  
 3           the department in the state fiscal year ending before July 1 of the  
 4           calendar year in which the determination is made;  
 5       as adjusted for **withholdings that are not associated with an**  
 6       **individual income tax return by the deadline for claiming a refund**  
 7       **under IC 6-3-4-8 and** refunds of county adjusted gross income tax  
 8       made in the state fiscal year.

9           (b) Before August 2 of each calendar year, the budget agency shall  
 10          provide to the county auditor of each adopting county an estimate of  
 11          the amount determined under subsection (a) that will be distributed to  
 12          the county, based on known tax rates. Not later than thirty (30) days  
 13          after receiving the estimate of the certified distribution, the county  
 14          auditor shall notify each taxing unit of the estimated amount of  
 15          property tax replacement credits, certified shares, and other revenue  
 16          that will be distributed to the taxing unit under this chapter during the  
 17          ensuing calendar year. Before October 1 of each calendar year, the  
 18          budget agency shall certify to the county auditor of each adopting  
 19          county the amount determined under subsection (a) plus the amount of  
 20          interest in the county's account that has accrued and has not been  
 21          included in a certification made in a preceding year. The amount  
 22          certified is the county's "certified distribution" for the immediately  
 23          succeeding calendar year. The amount certified shall be adjusted under  
 24          subsections (c), (d), (e), (f), and (g). Not later than thirty (30) days after  
 25          receiving the notice of the amount of the certified distribution, the  
 26          county auditor shall notify each taxing unit of the amount of property  
 27          tax replacement credits, certified shares, and other revenue that will be  
 28          distributed to the taxing unit under this chapter during the ensuing  
 29          calendar year. The budget agency shall provide the county council with  
 30          an informative summary of the calculations used to determine the  
 31          certified distribution. The summary of calculations must include:

- 32           (1) the amount reported on individual income tax returns
- 33           processed by the department during the previous fiscal year;
- 34           (2) adjustments for over distributions in prior years;
- 35           (3) adjustments for clerical or mathematical errors in prior years;
- 36           (4) adjustments for tax rate changes; and
- 37           (5) the amount of excess account balances to be distributed under
- 38           IC 6-3.5-1.1-21.1.

39          The budget agency shall also certify information concerning the part of  
 40          the certified distribution that is attributable to a tax rate under section  
 41          24, 25, or 26 of this chapter. This information must be certified to the  
 42          county auditor, the department, and the department of local government



1 finance before October 1 of each calendar year. The part of the certified  
2 distribution that is attributable to a tax rate under section 24, 25, or 26  
3 of this chapter may be used only as specified in those provisions.

4 (c) The budget agency shall certify an amount less than the amount  
5 determined under subsection (b) if the budget agency determines that  
6 the reduced distribution is necessary to offset overpayments made in a  
7 calendar year before the calendar year of the distribution. The budget  
8 agency may reduce the amount of the certified distribution over several  
9 calendar years so that any overpayments are offset over several years  
10 rather than in one (1) lump sum.

11 (d) The budget agency shall adjust the certified distribution of a  
12 county to correct for any clerical or mathematical errors made in any  
13 previous certification under this section. The budget agency may  
14 reduce the amount of the certified distribution over several calendar  
15 years so that any adjustment under this subsection is offset over several  
16 years rather than in one (1) lump sum.

17 (e) This subsection applies to a county that initially imposes,  
18 increases, decreases, or rescinds a tax or tax rate under this chapter  
19 before November 1 in the same calendar year in which the budget  
20 agency makes a certification under this section. The budget agency  
21 shall adjust the certified distribution of a county to provide for a  
22 distribution in the immediately following calendar year and in each  
23 calendar year thereafter. The budget agency shall provide for a full  
24 transition to certification of distributions as provided in subsection  
25 (a)(1) through (a)(2) in the manner provided in subsection (c). If the  
26 county imposes, increases, decreases, or rescinds a tax or tax rate under  
27 this chapter after the date for which a certification under subsection (b)  
28 is based, the budget agency shall adjust the certified distribution of the  
29 county after September 30 of the calendar year. The adjustment shall  
30 reflect any other adjustment required under subsections (c), (d), (f), and  
31 (g). The adjusted certification shall be treated as the county's "certified  
32 distribution" for the immediately succeeding calendar year. The budget  
33 agency shall certify the adjusted certified distribution to the county  
34 auditor for the county and provide the county council with an  
35 informative summary of the calculations that revises the informative  
36 summary provided in subsection (b) and reflects the changes made in  
37 the adjustment.

38 (f) The budget agency shall adjust the certified distribution of a  
39 county to provide the county with the distribution required under  
40 section 3.3 of this chapter beginning not later than the tenth month after  
41 the month in which additional revenue from the tax authorized under  
42 section 3.3 of this chapter is initially collected.



(g) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the budget agency shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(b) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

(h) The budget agency shall before May 1 of every odd-numbered year publish an estimate of the statewide total amount of certified distributions to be made under this chapter during the following two (2) calendar years.

(i) The budget agency shall before May 1 of every even-numbered year publish an estimate of the statewide total amount of certified distributions to be made under this chapter during the following calendar year.

(j) The estimates under subsections (h) and (i) must specify the amount of the estimated certified distributions that are attributable to the additional rate authorized under section 24 of this chapter, the additional rate authorized under section 25 of this chapter, the additional rate authorized under section 26 of this chapter, and any other additional rates authorized under this chapter.

SECTION 3. IC 6-3.5-6-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: **Sec. 16.5. The department shall record and track the amount of county option income tax revenue that is received from county taxpayers through tax withholding for which an income tax return has not been filed for a particular taxable year.**

SECTION 4. IC 6-3.5-6-17, AS AMENDED BY P.L.153-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the budget agency determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the



determination is made; and  
 (2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;  
 as adjusted (as determined after review of the recommendation of the budget agency) for **withholdings that are not associated with an individual income tax return by the deadline for claiming a refund under IC 6-3-4-8** and refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the budget agency shall provide to the county auditor of each adopting county an estimate of the amount determined under subsection (a) that will be distributed to the county, based on known tax rates. Not later than thirty (30) days after receiving the estimate of the certified distribution, the county auditor shall notify each taxing unit of the estimated amount of distributive shares and other revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year. Before October 1 of each calendar year, the budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), and (f). Not later than thirty (30) days after receiving the notice of the amount of the certified distribution, the county auditor shall notify each taxing unit of the amount of distributive shares and other revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year. The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

- (1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;
- (2) adjustments for over distributions in prior years;
- (3) adjustments for clerical or mathematical errors in prior years;
- (4) adjustments for tax rate changes; and
- (5) the amount of excess account balances to be distributed under IC 6-3.5-6-17.3.

The budget agency shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the



1 county auditor and to the department of local government finance  
2 before October 1 of each calendar year. The part of the certified  
3 distribution that is attributable to a tax rate under section 30, 31, or 32  
4 of this chapter may be used only as specified in those provisions.

5 (c) The budget agency shall certify an amount less than the amount  
6 determined under subsection (b) if the budget agency determines that  
7 the reduced distribution is necessary to offset overpayments made in a  
8 calendar year before the calendar year of the distribution. The budget  
9 agency may reduce the amount of the certified distribution over several  
10 calendar years so that any overpayments are offset over several years  
11 rather than in one (1) lump sum.

12 (d) The budget agency shall adjust the certified distribution of a  
13 county to correct for any clerical or mathematical errors made in any  
14 previous certification under this section. The budget agency may  
15 reduce the amount of the certified distribution over several calendar  
16 years so that any adjustment under this subsection is offset over several  
17 years rather than in one (1) lump sum.

18 (e) This subsection applies to a county that imposes, increases,  
19 decreases, or rescinds a tax or tax rate under this chapter before  
20 November 1 in the same calendar year in which the budget agency  
21 makes a certification under this section. The budget agency shall adjust  
22 the certified distribution of a county to provide for a distribution in the  
23 immediately following calendar year and in each calendar year  
24 thereafter. The budget agency shall provide for a full transition to  
25 certification of distributions as provided in subsection (a)(1) through  
26 (a)(2) in the manner provided in subsection (c). If the county imposes,  
27 increases, decreases, or rescinds a tax or tax rate under this chapter  
28 after the date for which a certification under subsection (b) is based, the  
29 budget agency shall adjust the certified distribution of the county after  
30 September 30 of the calendar year. The adjustment shall reflect any  
31 other adjustment required under subsections (c), (d), and (f). The  
32 adjusted certification shall be treated as the county's "certified  
33 distribution" for the immediately succeeding calendar year. The budget  
34 agency shall certify the adjusted certified distribution to the county  
35 auditor for the county and provide the county council with an  
36 informative summary of the calculations that revises the informative  
37 summary provided in subsection (b) and reflects the changes made in  
38 the adjustment.

39 (f) This subsection applies in the year a county initially imposes a  
40 tax rate under section 30 of this chapter. Notwithstanding any other  
41 provision, the budget agency shall adjust the part of the county's  
42 certified distribution that is attributable to the tax rate under section 30



of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(b) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first regular business day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

(j) The budget agency shall before May 1 of every odd-numbered year publish an estimate of the statewide total amount of certified distributions to be made under this chapter during the following two (2) calendar years.

(k) The budget agency shall before May 1 of every even-numbered year publish an estimate of the statewide total amount of certified distributions to be made under this chapter during the following calendar year.

(l) The estimates under subsections (j) and (k) must specify the amount of the estimated certified distributions that are attributable to the additional rate authorized under section 30 of this chapter, the additional rate authorized under section 31 of this chapter, the additional rate authorized under section 32 of this chapter, and any other additional rates authorized under this chapter.

SECTION 5. IC 6-3.5-7-10.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: **Sec. 10.4. The department shall record and track the amount of county economic development income tax revenue that is received from county taxpayers through**





1 **tax withholding for which an income tax return has not been filed**  
 2 **for a particular taxable year.**

3 SECTION 6. IC 6-3.5-7-11, AS AMENDED BY P.L.261-2013,  
 4 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JANUARY 1, 2016]: Sec. 11. (a) Revenue derived from the imposition  
 6 of the county economic development income tax shall, in the manner  
 7 prescribed by this section, be distributed to the county that imposed it.

8 (b) Before August 2 of each calendar year, the budget agency shall  
 9 provide to the county auditor of each adopting county an estimate of  
 10 the amount determined under subsection (a) that will be distributed to  
 11 the county, based on known tax rates. Not later than thirty (30) days  
 12 after receiving the estimate of the certified distribution, the county  
 13 auditor shall notify each taxing unit entitled to receive a distribution  
 14 under this chapter of the estimated amount of the distribution and other  
 15 revenue that will be distributed to the taxing unit under this chapter  
 16 during the ensuing calendar year. Before October 1 of each calendar  
 17 year, the budget agency shall certify to the county auditor of each  
 18 adopting county the sum of the amount of county economic  
 19 development income tax revenue that the budget agency determines  
 20 has been:

- 21 (1) received from that county for a taxable year ending before the
- 22 calendar year in which the determination is made; and
- 23 (2) reported on an annual return or amended return processed by
- 24 the department in the state fiscal year ending before July 1 of the
- 25 calendar year in which the determination is made;

26 as adjusted for **withholdings that are not associated with an**  
 27 **individual income tax return by the deadline for claiming a refund**  
 28 **under IC 6-3-4-8 and** refunds of county economic development  
 29 income tax made in the state fiscal year plus the amount of interest in  
 30 the county's account that has been accrued and has not been included  
 31 in a certification made in a preceding year. The amount certified is the  
 32 county's certified distribution, which shall be distributed on the dates  
 33 specified in section 16 of this chapter for the following calendar year.

34 (c) The amount certified under subsection (b) shall be adjusted  
 35 under subsections (d), (e), (f), and (g). Not later than thirty (30) days  
 36 after receiving the notice of the amount of the certified distribution, the  
 37 county auditor shall notify each taxing unit entitled to receive a  
 38 distribution under this chapter of the amount of distribution and other  
 39 revenue that will be distributed to the taxing unit under this chapter  
 40 during the ensuing calendar year. The budget agency shall provide the  
 41 county council with an informative summary of the calculations used  
 42 to determine the certified distribution. The summary of calculations



1 must include:

- 2 (1) the amount reported on individual income tax returns  
3 processed by the department during the previous fiscal year;  
4 (2) adjustments for over distributions in prior years;  
5 (3) adjustments for clerical or mathematical errors in prior years;  
6 (4) adjustments for tax rate changes; and  
7 (5) the amount of excess account balances to be distributed under  
8 IC 6-3.5-7-17.3.

9 (d) The budget agency shall certify an amount less than the amount  
10 determined under subsection (b) if the budget agency determines that  
11 the reduced distribution is necessary to offset overpayments made in a  
12 calendar year before the calendar year of the distribution. The budget  
13 agency may reduce the amount of the certified distribution over several  
14 calendar years so that any overpayments are offset over several years  
15 rather than in one (1) lump sum.

16 (e) The budget agency shall adjust the certified distribution of a  
17 county to correct for any clerical or mathematical errors made in any  
18 previous certification under this section. The budget agency may  
19 reduce the amount of the certified distribution over several calendar  
20 years so that any adjustment under this subsection is offset over several  
21 years rather than in one (1) lump sum.

22 (f) The budget agency shall adjust the certified distribution of a  
23 county to provide the county with the amount of any tax increase  
24 imposed under section 26 of this chapter to provide additional  
25 homestead credits as provided in those provisions.

26 (g) This subsection applies to a county that imposes, increases,  
27 decreases, or rescinds a tax or tax rate under this chapter before  
28 November 1 in the same calendar year in which the budget agency  
29 makes a certification under this section. The budget agency shall adjust  
30 the certified distribution of a county to provide for a distribution in the  
31 immediately following calendar year and in each calendar year  
32 thereafter. The budget agency shall provide for a full transition to  
33 certification of distributions as provided in subsection (b)(1) through  
34 (b)(2) in the manner provided in subsection (d). If the county imposes,  
35 increases, decreases, or rescinds a tax or tax rate under this chapter  
36 after the date for which a certification under subsection (b) is based, the  
37 budget agency shall adjust the certified distribution of the county after  
38 September 30 of the calendar year. The adjustment shall reflect any  
39 other adjustment authorized under subsections (c), (d), (e), and (f). The  
40 adjusted certification shall be treated as the county's certified  
41 distribution for the immediately succeeding calendar year. The budget  
42 agency shall certify the adjusted certified distribution to the county



1 auditor for the county and provide the county council with an  
2 informative summary of the calculations that revises the informative  
3 summary provided in subsection (c) and reflects the changes made in  
4 the adjustment.

5 (h) The budget agency shall before May 1 of every odd-numbered  
6 year publish an estimate of the statewide total amount of certified  
7 distributions to be made under this chapter during the following two (2)  
8 calendar years.

9 (i) The budget agency shall before May 1 of every even-numbered  
10 year publish an estimate of the statewide total amount of certified  
11 distributions to be made under this chapter during the following  
12 calendar year.

13 (j) The estimates under subsections (h) and (i) must specify the  
14 amount of the estimated certified distributions that are attributable to  
15 any additional rates authorized under this chapter.

